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ON THE LAW OF THE SEA

SPLOS

MEETING OF
STATES PARTIES

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MEETING OF STATES PARTIES
Fourth Meeting
New York, 4-8 March 1996

REPORT OF THE FOURTH MEETING OF STATES PARTIES

Prepared by the Secretariat

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I. INTRODUCTION

A. Convening of the Meeting

1. The fourth Meeting 1/ of States Parties to the United Nations Convention on the Law of the Sea was convened from 4 to 8 March 1996 in accordance with article 319, paragraph 2 (e), of the Convention and the decision taken at the third Meeting. 2/ Pursuant to that decision, and in accordance with rule 5 of the rules of procedure adopted by the Meeting of States Parties, 3/ invitations to participate in the Meeting were addressed by the Secretary-General of the United Nations to all States Parties to the Convention, and also to the observers referred to in rule 18 of the rules of procedure.

2. The Meeting was convened to consider and adopt the budget for the International Tribunal for the Law of the Sea covering the initial period (1 August 1996-31 December 1997). It was also to consider the revised draft agreement on the privileges and immunities of the Tribunal with a view to its adoption before the election of the Members of the Tribunal, scheduled to take place on 1 August 1996.

B. Documentation

3. In addition to the documentation available at previous Meetings, the following documents were before the Meeting:

- Report of the third Meeting of States Parties, 27 November to 1 December 1995 (SPLOS/5);
- Credentials of representatives to the first four Meetings of States Parties to the United Nations Convention on the Law of the Sea: report of the Credentials Committee (SPLOS/7);
- Informal proposals for the organization of work for the session: note by the President (SPLOS/CRP.4);
- Draft decisions on budgetary matters (SPLOS/CRP.6);
- Draft initial budget for the International Tribunal for the Law of the Sea covering the period August 1996-December 1997, prepared by the Secretariat (SPLOS/WP.1/Rev.1);
- Draft agreement on the privileges and immunities of the International Tribunal for the Law of the Sea (SPLOS/WP.2);
- Draft revised budget estimates for the International Tribunal for the Law of the Sea covering the period August 1996-December 1997 (SPLOS/WP.3);
- Election of the Members of the International Tribunal for the Law of the Sea: provisional list of candidates, note by the Secretariat (SPLOS/INF/4);

- Letter dated 28 February 1996 from the Under-Secretary-General for Legal Affairs addressed to the President of the Meeting of States Parties: implications of the United Nations budget for the International Tribunal for the Law of the Sea (SPLOS/INF/5).

C. Organization of work

4. The President referred participants to the note prepared by him containing proposals for the organization of work of the current Meeting (SPLOS/CRP.4). Those matters categorized in his paper as requiring early consideration were the adoption during the current Meeting of the budget for the Tribunal covering the initial period (1 August 1996-31 December 1997), and the adoption of the draft agreement on the privileges and immunities of the Tribunal. The former matter called for decisions on the administrative arrangements, structure, financial implications and organization of the Tribunal during the initial period; and the source of financing of the budget (an illustrative scale of assessments for the apportionment of the budget among actual and prospective States Parties, based on the United Nations scale of assessments, was annexed to document CRP.4). The note included a proposal for a working capital fund and a charge to be made for administrative services to be carried out by the United Nations in dealing with the finances.

5. The President's note also proposed that the report of the Secretary-General to States Parties under article 319 (2) (a) of the Convention (to be issued as document SPLOS/6) be placed on the agenda of the next Meeting. 4/

6. It was agreed that the Meeting of States Parties would begin with a consideration of the budget of the Tribunal for the initial period and then proceed to an examination of the draft agreement on the privileges and immunities of the Tribunal.

II. CONSIDERATION OF SUBSTANTIVE MATTERS AND DECISIONS TAKEN

A. Budget of the Tribunal for the initial period (1 August 1996-31 December 1997)

7. At the first meeting, held on 4 March 1996, the President explained the changes that had been introduced in the revised draft initial budget for the Tribunal covering the period August 1996-December 1997 (SPLOS/WP.1/Rev.1). He drew attention to the fact that the cost of the preparatory work for the period from April to July 1996, which the Office of Legal Affairs had been requested to incorporate in its budget, could not, as explained in the letter from the Under-Secretary-General for Legal Affairs (SPLOS/INF/5), be funded by that Office in view of the recent decision of the General Assembly to reduce the budget appropriations for the United Nations. In the absence of an alternative source of funding, the start-up costs had been incorporated in the draft initial budget for the Tribunal, as reflected in annex III of document SPLOS/WP.1/Rev.1.

8. The draft initial budget for the Tribunal (SPLOS/WP.1/Rev.1) was reviewed by the Meeting of States Parties at informal open-ended consultations. On the

basis of the comments and suggestions made, draft decisions on budgetary matters were formulated. Further discussions resulted in the presentation to a formal meeting, held on 8 March 1996, of the "Draft decisions on budgetary matters" (SPLOS/CRP.6), as well as the "Draft revised budget estimates for the International Tribunal for the Law of the Sea covering the period August 1996-December 1997" (SPLOS/WP.3).

9. In the course of its review, the Meeting of States Parties approved a number of changes to the draft decisions on budgetary matters (SPLOS/CRP.6). It decided, inter alia, that the advance contributions that States Parties would be requested to make within 30 days of having been advised by the Secretary-General of the United Nations of the estimated amount of their assessed contributions to the initial budget of the Tribunal would be 15 per cent of such estimated amount. This was to ensure that there would be sufficient funds to meet the preparatory expenses of the Tribunal. The Meeting decided that, pending its approval of rules for the financial management of the Tribunal, the Financial Regulations of the United Nations should be applied mutatis mutandis.

10. The dates specified for payment of the assessed contributions for 1996 and 1997, and for the advance contribution of 15 per cent, gave rise to concerns by some delegations. While the Meeting of States Parties understood that some countries might have difficulties in meeting their financial obligations on time because of budgetary cycles, it nevertheless decided that this situation should not constitute a general rule at the outset. It was noted by the Meeting that if a State Party, because of its budget cycle, was unable to pay the assessed contributions by the dates specified for the payment of such contributions, it should inform the Secretary-General of the earliest date when it would meet its financial obligations.

11. The working paper entitled "Draft revised budget estimates for the International Tribunal for the Law of the Sea covering the period August 1996-December 1997" (SPLOS/WP.3) was the basis for the decisions on budgetary matters. The Meeting of States Parties adopted the budget and related matters contained in that document by consensus. The changes made by the Meeting of States Parties to the draft decisions on budgetary matters (SPLOS/CRP.6) included changes which it approved in respect of paragraphs 27 to 29 and annex III to document SPLOS/WP.3. Those and other modifications to the working paper will be reflected in the revision thereto (SPLOS/WP.3/Rev.1). The decisions on budgetary matters as approved by the Meeting of States Parties are reflected in document SPLOS/L.1.

12. Following the approval of the decisions on budgetary matters, one delegation explained that it had joined the consensus in order to facilitate the expeditious establishment of the Tribunal. That delegation did not support the level of remuneration approved for the Members of the Tribunal.

B. Draft agreement on the privileges and immunities of the Tribunal

13. The Meeting of States Parties considered the revised "Draft agreement on the privileges and immunities of the International Tribunal for the Law of the

Sea" prepared by the Secretariat (SPLOS/WP.2) in four open-ended informal meetings. It was not able to complete an article-by-article review of the revised draft agreement and decided that its future discussions would be greatly facilitated if the Secretariat could annotate article 12 (Members and Members ad hoc of the Tribunal) and some other relevant provisions. The annotations should also include any amendments that were proposed. The annotations will be issued as an addendum to working paper 2 (SPLOS/WP.2/Add.1).

III. OTHER MATTERS

A. Report of the Credentials Committee

14. The Credentials Committee, the members of which were elected at the second Meeting of States Parties, 5/ met for the first time on 6 March 1996 and elected its Chairman, Mr. Gilberto B. Asuque (Philippines), by acclamation. At that first and a subsequent meeting on 7 March 1996, the Committee examined the credentials of representatives to the first four Meetings of States Parties.

15. The report of the Committee (SPLOS/7) was presented to and approved by the Meeting of States Parties on 8 March 1996.

B. Dates and programme of work for the fifth Meeting

16. The Meeting of States Parties decided to hold its fifth Meeting in New York from 24 July to 2 August 1996. The meeting originally scheduled for 6 to 10 May 1996 was cancelled, and the meeting that had been scheduled for 29 July to 2 August 1996 was extended by three days.

17. On the understanding that, at the fifth Meeting, priority will be given to preparations for the election of the Members of the Tribunal, such as the approval of a procedure for such election taking into account the provisions of the Convention and Annex VI, the Meeting of States Parties adopted the following programme of work for the next meeting:

(a) Election of the Members of the Tribunal;

(b) Completion of the review of the revised draft agreement on the privileges and immunities of the Tribunal and adoption of the agreement;

(c) Consideration of financial rules and regulations for the financial administration of the Tribunal.

18. Relevant background documentation relating to the election of the Members includes the "Election of the Members of the Tribunal - Review of alternatives" (LOS/PCN/SCN.4/WP.16/Add.10, in LOS/PCN/152 (Vol. I)); the list of candidates, to be issued; 6/ and a paper to be prepared by the Secretariat on the procedure for the election.

19. The sixth meeting is scheduled for March 1997 and it would be necessary to set the date for the election of the Members of the Commission on the Limits of

the Continental Shelf and to establish the time-limits for the submission of candidates.

Notes

1/ The previous three Meetings of States Parties were held on 21 and 22 November 1994, from 15 to 19 May 1995 and from 27 November to 1 December 1995.

2/ SPLOS/5, para. 24.

3/ SPLOS/2/Rev.3.

4/ SPLOS/CRP.4, para. 22.

5/ For the membership of the Committee, see SPLOS/4, para. 17.

6/ A provisional list was issued as document SPLOS/INF/4.

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SPLOS

MEETING OF
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MEETING OF STATES PARTIES
Fifth Meeting
New York, 24 July-2 August 1996

ELECTION OF THE MEMBERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Note by the Secretary-General

1. The International Tribunal for the Law of the Sea is constituted in accordance with article 287 of the United Nations Convention on the Law of the Sea and the Statute of the Tribunal, Annex VI thereto. The Tribunal is composed of 21 Members. Part XV of the Convention requires that States Parties shall settle disputes between them concerning the interpretation or application of the Convention by the peaceful means set out in Article 33 of the Charter of the United Nations. Article 286 of the Convention stipulates that, where no settlement has been reached by recourse to such means as the parties to the dispute may choose, the dispute shall be submitted at the request of any party to the court or tribunal having jurisdiction under section 2 of Part XV. Article 287 identifies the Tribunal as the central forum for this purpose.

2. The first Meeting of States Parties, held on 21 and 22 November 1994, decided on a one-time deferment of the first election of the Members. The election will be held on 1 August 1996 at the fifth Meeting of States Parties, to be held from 24 July to 2 August 1996 in New York. 1/

3. The Meeting also decided that the nominations of candidates would open on 16 May 1995 and that each State Party and a State which was in the process of becoming a State Party might nominate not more than two persons, as provided in article 4, paragraph 1, of the Statute. The Meeting further decided that the nominations would close on 17 June 1996. Nominations received from a State which was in the process of becoming a party to the Convention would remain provisional and would not be included in the list of candidates to be circulated by the Secretary-General of the United Nations prior to the election in accordance with article 4, paragraph 2, of the Statute, unless the State concerned had deposited its instrument of ratification or accession by

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/...

1 July 1996. Subject to these decisions, the Meeting decided that all procedures relating to the election of the Members of the Tribunal as provided for in the Convention would apply. 2/

4. The Secretary-General, in accordance with article 4, paragraph 2, of the Statute and the decision of the Meeting of States Parties referred to above, addressed a note dated 27 March 1995 to States Parties and to observer States inviting them to submit by 17 June 1996 the names of candidates whom their Governments might wish to nominate for the election of Members of the Tribunal together with statements of qualifications of such candidates.

5. The Secretary-General addressed a further note dated 18 April 1996 to States Parties and observer States, drawing attention to the previous note inviting nominations and reminding them of the closing date for receipt of nominations and the requirement that States that were not parties should have deposited their instruments of ratification or accession before 1 July 1996 in order that candidates nominated by them would be included on the list of candidates for election.

6. A list of all the persons nominated, in alphabetical order, with an indication of the States Parties which have nominated them, will be prepared by the Secretary-General in accordance with article 4, paragraph 2, of the Statute. The list and the curricula vitae of the candidates will be circulated on 5 July 1996 in accordance with the decision of the first Meeting of States Parties. 3/

7. Articles 2 and 3 of the Statute provide as follows:

"Article 2

"Composition

"1. The Tribunal shall be composed of a body of 21 independent members, elected from among persons enjoying the highest reputation for fairness and integrity and of recognized competence in the field of the law of the sea.

"2. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

"Article 3

"Membership

"1. No two members of the Tribunal may be nationals of the same State. A person who for the purposes of membership in the Tribunal could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

"2. There shall be no fewer than three members from each geographical group as established by the General Assembly of the United Nations."

8. Article 4 of the Statute provides that the Members of the Tribunal shall be elected by secret ballot from the list of candidates prepared by the Secretary-General, as referred to in paragraph 6 above, at a meeting of States Parties convened for that purpose by the Secretary-General in the case of the first election. Two thirds of the States Parties shall constitute a quorum at such meeting.

9. Article 4, paragraph 4, of the Statute stipulates that the persons elected to the Tribunal shall be those nominees who obtain the largest number of votes and a two-thirds majority of States Parties present and voting, provided that such majority includes a majority of the States Parties.

10. In accordance with article 5 of the Statute, the Members of the Tribunal shall be elected for nine years and shall be eligible for re-election, provided, however, that of the Members elected at the first election, the terms of seven Members shall expire at the end of three years and the terms of seven more Members shall expire at the end of six years. The Members of the Tribunal whose terms are to expire at the end of the initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General of the United Nations or his representative immediately after the first election.

Notes

1/ SPLOS/3, para. 16 (a).

2/ Ibid., para. 16 (e).

3/ Ibid., para. 16 (d).